IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 21460 of 2004(D)

OS.1919/1997 of III ADDL.M.C.,TRIVANDRUM
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PETITIONER:

P.P.VELUKUTTY, AGED 85,
PUNNAKKA THOPPIL VEEDU, KARIKKAKOM, BEACH P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.ANANDAKUTTAN
SRI.B.SATHIQ
SRI.R.S.MADHU
SMT.SHIRMILA. C.S.

RESPONDENTS:
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1. **SRI.V.K.CHANDRAHASAN, VALIYAVILAKATHU VEEDU, VENPALAVATTOM, ANAYARA P.O., THIRUVANANTHAPURAM.**

2. **SRI.S.MADHUSOODANAN, KRISHNA VIHAR, THANNICHAL, VENPALAVATTOM, THIRUVANANTHAPURAM.**

BY ADV. SRI.L.MOHANAN for R1 & R2
SMT.LIGEY ANTONY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.21460/2004 D

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF COMMISSION APPLICATION IN I.A.NO.11389/2003.**

EXT.P2: **COPY OF ORDER DTD. 17/12/2003 IN I.A.11389/2003 IN O.S.NO.1919/1997 OF THE III ADDL.MUNSIFF.**

/TRUE COPY/

P.A.TO JUDGE

KSS

PIUS C. KURIAKOSE,J.

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W.P.(C) No.21460 of 2004

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Dated: 29th November, 2007

JUDGMENT

Under challenge in this Writ Petition under Article 226 of the Constitution filed by the second plaintiff in O.S.No.1919/97 of the Munsiff's Court, Trivandrum is Ext.P2 order by which Ext.P1 application for issuance of a commission was dismissed. No counter affidavit has been filed by the respondents. On 21.7.2004 this court admitted the Writ Petition and granted stay for one month. It is seen that thereafter the stay has not been extended. It is not known whether the suit is even now pending. The Writ Petition will stand disposed of directing the court below to special list the suit for trial and to permit the petitioner to convince the court below during the course of the final hearing regarding the necessity of taking out a commission. If the court below is convinced, commission will be issued notwithstanding Ext.P2. In order to have a meaningful compliance of the above directions, the learned Munsiff will pass orders on the question of issuing commission even before the final judgment is delivered in the suit.

srd **PIUS C.KURIAKOSE, JUDGE**